



MEMO

DATE: June 2009

TO: Licensed Speech-Language Pathologist and Audiologist, Applicants for licenses and other interested persons

FROM: Health Occupations Program

PHONE: 651-201-3726

SUBJECT: Answers to commonly asked questions about licensing

Minnesota Department of Health staff and Members of the Speech-Language Pathologist and Audiologist Licensing Advisory Council have composed this memo to help practitioners better understand the regulations and legal responsibilities under the state licensing laws. Below are listed questions commonly asked by Speech-Language Pathologists and Audiologists and the answers given by Minnesota Department of Health Licensing staff concerning regulation of the professions.

1. Q: Why are Speech-Language Pathologist/Audiologists regulated by the State of Minnesota? Why do I need Minnesota Department of Health licensing, and why can't I practice my occupation when I've completed my degree and am ASHA certified?

A: The Federal government does not regulate practitioners of the various occupations. Also, each state regulates occupations independently of other states. In addition, many occupations establish private, national professional organizations or associations which provide a credential to persons who meet educational, practicum, clinical and/or examination requirements. These national credentialing organizations do not have governmental authority, though in most cases they meet governmental standards for accrediting organizations, and their standards are often adopted by state governments that regulate the occupations. The American Speech-Language- Hearing Association (ASHA) is an example of such an organization. Membership and participation in ASHA is not required by law. Though voluntary, there may be many professional benefits to membership that make it compelling.

In Minnesota, the Legislature passes laws regulating occupations when it determines that doing so is necessary to protect the safety and well being of the citizens of the state. Minnesota has regulated Speech-Language Pathologists and Audiologists since February 11, 1991. Prior to August 1, 2003, a registration system required practitioners who wanted to use specific occupational titles for speech-language pathology and audiology to

be registered by the Commissioner of Health. Effective August 1, 2003, the Minnesota Legislature amended the regulatory scheme from registration to licensing, and the law now prohibits practice of speech-language pathology or audiology without a license. Use of occupational titles continues to be restricted under the licensing law. The licensing law found in Minnesota Statutes, sections 148.511 to 148.5198 contains standards establishing the minimum qualifications for licensing, Continuing Education (CE) requirements, and prohibited practices. The statute also contains the requirements for obtaining initial licenses and renewing licenses.

2. Q: Why are there licensing fees and why are they so high? Why are Minnesota's fees higher than other states? Where does the money go?

A: In Minnesota, it is a policy contained in state law that all regulation of occupations is funded by fees paid by the regulated practitioners. This means that no general fund tax revenues are used to pay for the cost of the licensing system for speech-language pathologists and audiologists. Some other states may use non-fee revenues to subsidize the cost of occupational regulation, thus reducing the cost of regulation born directly by speech-language pathologists and audiologists and paid in licensing fees.

The biennial license fee amount is a straightforward mathematical calculation: total costs for two years divided by the number of practitioners. It costs about \$220,000 each biennium to operate the licensing system, and there are about 1,400 licensed practitioners as of July, 2006. Combined with other fee revenues, the initial and biennial renewal application fees maintain a positive account balance. As of July 2005, Audiologists pay an additional surcharge fee to cover the additional costs associated with dispensing hearing instruments. As in most organizations, the largest single expense is salary and benefits for staff positions. In fiscal year 2008, the total full time equivalents devoted to the licensing system was 2.68 FTEs, or less than three full time employees. The activities performed by staff include annual review of over 700 applications and issuance of initial, temporary, and renewal licenses; telephone responses to practitioner inquiries; support for and attendance at four advisory council meetings per year; audits and follow up of continuing education reports; and investigations of alleged violations of regulations followed by enforcement actions when appropriate. Frequently, amendments are made to the statutes through legislative action, and staff draft language, provide justifications for the proposed changes and testify at the legislature.

3. Q: What types of licenses are there, and what type of license do I need?

A: There are two types of licenses for speech-language pathologists and audiologists: a full or permanent license and a temporary license. The following illustrate a sampling of situations and the type of license needed:

I am coming to work in Minnesota from another state . . .

If you hold a current and unrestricted license in another state or are currently credentialed with ASHA, American Board of Audiology (ABA) or the American Academy of Audiology (AAA), you can apply for a temporary license separately or in conjunction

with your application for your permanent license. A temporary license will allow you to practice and use titles while you wait for your full license to be processed.

I start work in two weeks and need to be licensed . . .

Like the above situation, if you hold a current and unrestricted license from another state or are currently credentialed with ASHA, ABA or AAA, you can apply for a temporary license. This license will allow you to work while your permanent license application is being processed.

I am a recent graduate of . . .

If you have just completed your Master's or Doctoral degree program and are about to start your clinical experience, you must apply for clinical fellowship or doctoral externship temporary license. You do not need to have passed the national exam to be eligible for this temporary license, but you must have completed the necessary course work and practicum necessary to graduate with a Master's or Doctorate degree.

I am beginning my clinical experience . . .

You must apply for a temporary license before you start your clinical experience. You may not engage in the practice of speech-language pathology or audiology unless licensed.

I work in a school . . .

If you hold a license with the Minnesota Board of Teaching and only work in a school setting, you do not need to be licensed with the Department of Health. However, if you also do any work outside of your school employment, you must also first be licensed by the Department of Health.

I'm doing my postgraduate clinical experience in a school . . .

If you are completing your speech-language pathology clinical experience in a school setting, you do not need to be licensed with the Minnesota Department of Health. However, you will need to become licensed if you pursue any employment as a speech-language pathologist in a non-school setting upon completion of your clinical fellowship or doctoral externship. Audiologists must obtain a clinical fellowship or doctoral externship temporary license regardless of type or location of employment.

4. Q: Can a person in their postgraduate Clinical Fellowship or Doctoral Externship dispense hearing aids?

A: Yes, a person in their postgraduate clinical experience can dispense hearing aids if they are supervised by an audiologist who dispenses. However, in order to obtain full licensing, clinical fellows and doctoral candidates in audiology are required to take and pass the hearing instrument dispenser practical examination.

5. Q: If I am applying for a full Audiology license, and I do not want to dispense hearing aids, do I still need to take the hearing instrument dispenser practical examination?

A: Yes, all audiologist applicants after July 31, 2005 must have taken and passed the hearing instrument dispenser practical examination to be eligible for audiologist licensure.

6. Q: I am an audiologist licensed in another state where I was authorized to dispense hearing instruments. Can I dispense hearing instruments under my Minnesota audiology license or do I need to meet other requirements?

A: When you obtain your permanent Minnesota audiology license, you will be able to independently dispense hearing instruments. As an audiologist licensed in another state, you may apply for and obtain a temporary Minnesota license while your application for a permanent license is completed and processed by the Minnesota Department of Health. You may dispense hearing instruments with a temporary license only if you are under supervision of a Minnesota licensed audiologist who dispenses hearing aids. To qualify for your permanent audiology license, you will need to take and pass a hearing instrument dispensing practical examination.

7. Q: I am a licensed speech-language pathologist. Can I hire assistants and delegate tasks to them?

A: The practice of Speech-Language Pathology (SLP) includes the supervision of SLP functions defined in the scope of practice. If you are an MDH-licensed Speech-Language Pathologist, certified by the American Speech-Language Association and have completed at least one continuing education credit in supervision, you may supervise one full-time equivalent SLP assistant who meets the requirements of the SLP licensing statute. Minnesota statute 2005, section 148.5192, authorizes the delegation of duties to SLP assistants and prescribes the duties that can be delegated. The statute says that the assistant must be an individual who can document with a transcript from an educational institution completion of either an associate degree from an SLP assistant program or a bachelor's degree in communication sciences or disorders and completion of at least 100 hours of supervised fieldwork experience as an SLP assistant student. In subdivision 2 of section 148.5192, the statute also describes the duties a licensed SLP can delegate, subject to the training and experience of the SLP assistant, and those duties that cannot be delegated under any circumstances. Finally, the statute, in subdivision 3, describes the supervision requirements that the licensed supervising SLP must meet.

8. Q: I am a licensed audiologist. Can I supervise hearing instrument dispenser trainees?

A: Under, Minnesota Statutes 2005, section 153A. 14, subd.4a (a) (2), audiologists who are certified hearing instrument dispensers may supervise hearing instrument dispenser trainees. [Note: The Department of Health will attempt to amend this

provision in the 2007 Legislative Session to allow supervision of trainees by licensed audiologists without having to be certified as a hearing instrument dispenser.]

9. Q: As a licensed audiologist, can I supervise a non-audiologist and delegate audiology tasks?

A: The practice of Audiology includes the supervision of audiology functions defined in the scope of practice. If a licensed audiologist supervises an individual and delegates audiology tasks, the audiologist should carefully document the education, training and experience of the assistant, the skill and competency of the assistant, the duties being delegated, the limitations on the assistant=s activities, the training and supervision provided on the job to the assistant and the protocols to be followed by the assistant when performing delegated tasks.

10. Q: I am about to be assigned for duty in the United States armed forces. What should I do about my license and the renewal, fee and continuing education that are due when I am out of the country? What do I do when I return?

A: Under Minnesota Statutes, if your license was effective at the time you entered the armed forces or engaged in employment outside of the United States essential to the prosecution of any war or to the national defense, you are exempt from the requirements to renew your license, pay the renewal fee and complete and report continuing education. This exemption is effective while you remain in the armed forces or engaged in such employment outside the United States and for six months after discharge or from the date of return within the boundaries of the United States. Your license remains in full force and effect during and for six months following the time you are in the armed forces or engaged in such employment outside the United States.

If you are eligible for this exemption, you must notify us. We will ask you to provide evidence of active duty or of engagement in such employment outside the United States. We will renew your license on the scheduled date without your submitting the renewal application, fees or continuing education report. You must then notify us after discharge or ceasing such employment and within six months.

If you stay in the armed forces or such employment outside the United States for more than one renewal period, we will send you the renewal notice and renewal application as normal. You will need to notify us of continuation of your exempt status, and you may be asked to document your status.

If you choose to renew your license while the exemption is still effective, you may submit the renewal application though not required to, and you do not need to submit a fee or continuing education report.

When you are discharged from the armed forces or return within the boundaries

of the United States if engaged in such employment and six months have passed, you must complete the renewal application when sent to you and return it to us with the required fee. You will also need to submit a continuing education report showing coursework hours in an amount prorated to the number of months elapsed since your exempt status ceased.

11. Q: I mailed my license on Monday. Will I have my license by Friday?

A: License application processing time varies depending on the type of application you are applying for.

(1) the processing time for a temporary license takes 1-10 business days after all documents are received.

(2) the processing time for a full or permanent license takes 30-60 business days.

12. Q: What happens if I do not renew my license on time or by the expiration date?

A: If your license expires, you cannot practice or use any of the protected titles after expiration of your license. Continuing to practice and using protected titles after expiration of your license violates state law and persons violating this provision are subject to a penalty fee equal to the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months. Example: \$200 x number of months (full or partial) license lapsed and practiced Speech-Language Pathology or Audiology penalty amount.

13. Q: Why can't I practice or use protected titles after expiration when I'm as qualified after expiration as I was before expiration?

In a license system, state law establishes the right of a person to practice and use the protected titles. When a practitioner's license expires, the right to practice and use the titles expires as well. Other occupational credentialing systems conducted by other agencies and licensing boards function in the same way. Licenses must be current to legally practice and use titles.

14. Q: If I decide not to renew my license, how difficult is it to renew at a later time?

A: A practitioner deciding to renew their license after a lapse must complete a renewal application, pay the prorated renewal fee plus late fee of \$45.00 and meet the requirements set out in Minnesota Statutes, section 148.518. The applicant must select one of the five following options in order to renew.

- 1) Apply for licensure renewal according to section 148.5191 and document compliance with the continuing education requirements of section 148.5193 since the applicants license lapsed.
- 2) Fulfill the requirements of 148.517, licensure by reciprocity.
- 3) Apply for renewal according to section 148.5191 provide evidence to the commissioner the applicant holds a current and unrestricted credential for the speech-language pathology from the Minnesota Board of Teaching or the practice of audiology in another jurisdiction that has requirements equivalent to or higher than those in effect for Minnesota, and provide evidence of compliance with Minnesota Board of Teaching or that jurisdictions continuing education requirements.
- 4) Apply for renewal according to section 148.5191 and submit verified documentation of successful completion of 160 hours of supervised practice approved by the commissioner. To participate in a supervised practice, the applicant shall first apply and obtain temporary licensing according to section 148.5161
- 5) Apply for renewal according to section 148.5191 and provide documentation of obtaining a qualifying score on the examination described in section 148.515, subdivision 4, within one year of the application date for license renewal.

15. Q: Why do I have to submit my renewal application 30 days before it expires?

A: According to Minnesota Statutes, Section 148.5191, AAn application for license renewal must be received by the department of health or postmarked at least 30 days before the expiration date. A full 30 days is needed by the department to process between 300 and 400 renewal applications, and CE reports, and to ensure that everyone who applied by the deadline is renewed on or before their expiration date.

16. Q: How is Department staff time spent when reviewing renewal applications? Why can't I have my license renewal right away?

A: All renewal applications are carefully reviewed. If information is missing or the application is incomplete, a letter is written and the application is returned to the practitioner for completion. Application information is entered into a database so that practitioners data files are updated. When continuing education materials are included with the application, they are reviewed so that the results are mailed out to the practitioner with their issuance letter. Further, an investigation and enforcement check is conducted on all practitioners before they are renewed. Approval letters and wallet cards are produced, copied for records, filed, and mailed out. Therefore, renewals are not issued right away due to the varied tasks involved in the review process and the large number of applications received in a month's period. Further, renewal applications are processed in the order received.

17. Q: When do I have to start obtaining and reporting CE?

A: Your reporting period is the two-year period beginning with the effective date of your current license and ending with the expiration date of your license.

18. Q: What are the requirements regarding generally related and directly related CE?

A: For each CE course you must state on your reporting form opposite the course description whether the course is generally related or directly related.

Examples of CE that are generally related are as follows:

Courses on rehabilitation that are designed for audiences other than SLP's and audiologist:

- Medical conferences that are not targeted at an audience of SLP's or audiologist;
- Courses on communication disorders that are designed for parents or professionals other than speech-language pathologists and audiologist.

Courses in CPR

Courses on business administration

Courses on special education administration

Courses on health care management

Courses on communication skills in the work place

Courses in computer technology

Examples of CE that is directly related are as follows:

Courses on rehabilitation that are designed for audiences other than SLPs and audiologist:

- Mental health issues of children with physical and neurological disabilities
- Pediatric feeding and swallowing disorders
- Facilitated communication
- Behavior modification and stuttering

Cognitive dysfunction and brain injury

Courses on how to motivate students

Courses on behavior management techniques

Courses on the American with Disabilities Act & IDEA

Courses on reading instruction

Courses on Sign language

Courses on integrating speech-language-hearing services into the classroom

Courses on Rehabilitation, Assessment/Diagnostics

Courses on Multicultural Communication

Training by hearing aid manufacturers

Courses on augmentative/alternative communication systems

Courses on reimbursement:

- Funding resources for computer and assistive technology
- Medicare or Medical Assistance reimbursement

19. Q: What if I don't have the right number of CE contact hours when I apply for renewal?

A: Not completing CE in the prescribed time period is a violation of state law and could lead to a non-disciplinary civil penalty. The CE reporting period is the two-year period beginning with the effective date of your current license and ending with the expiration date of your license. Though your license renewal application is due 30 days before your expiration, you may submit your CE reporting form after and separate from your renewal application. Your CE report must be received in our office within one month following expiration of a license or your CE will be considered late and could lead to a non-disciplinary penalty. If you do not have enough contact hours on the license expiration date, you will be in violation of the requirement. Reporting less than the required amount of CE hours by the due date will be a lesser penalty than waiting until after the due date to report the full amount using courses outside the required time period.

20. Q: I need to keep verifications of attendance for CE activities in case I am audited. What types of verifications should I submit if I am audited?

A: According to Minnesota Statutes, section 148.5193, Subd. 6a, practitioners must keep verifications of attendance for two years and may do so in any of the following ways:

- 1) A certificate of attendance from the sponsor with the course name, course date, and licensee's name. If a certificate of attendance is not available, the commissioner may accept other evidence of attendance such as confirmation or statement of registration for regional or national annual conferences or conventions of professional associations a copy of the continuing education courses indicating those attended, and an affidavit of attendance; **OR**
- 2) A copy of a record of attendance from the sponsor of the continuing education course, **OR**
- 3) A signature of the presenter or a designee at the continuing education activity on the continuing education report form, **OR**
- 4) A summary or outline of the educational content for an audio or video educational activity if a designee is not available to sign the continuing education report form, **OR**
- 5) For self-study programs, a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program, **OR**
- 6) For attendance at a university, college or vocational course, an official transcript.

Please note: You do not need to provide all of the above forms of verification for each course you take. Please provide only ONE form of verification of attendance for EACH CE activity.

21. Q: If I attend a convention with a variety of presentations on different topics, do I need to provide the Department with more than the name of the convention, the date and place?

A: Yes, please list each break-out session that you attended at the convention. You must note whether the break-out session was directly or generally related and the length of the session.

22. Q: What types of sanctions, or disciplinary actions, can the Department take and why?

A: Minnesota Statutes, section 148.5195, Subd. 4 lists the types of disciplinary actions the Department may take. These include denying licensing, suspending or revoking licensing, or taking any reasonable, lesser action against an individual upon proof that s/he has violated one of the prohibited acts. Minnesota Statutes, section 148.5195, subd. 4, allows the Department of Health to assess civil penalties based on economic advantage gained by the violation and/or costs of investigation.

Minnesota Statutes, section 148.5195, Subd. 3 lists the prohibited acts including submitting false or misleading information to the Department, failing to cooperate with an investigation, performing services in an incompetent or negligent manner, engaging in fraudulent billing practices, being disciplined by another jurisdiction, and if the audiologist also dispenses hearing aids, violating laws governing hearing aid dispensing. The Department of Health could suspend or revoke a practitioner's license for violations causing patient harm or risk of harm. Evaluation of what type of sanction is appropriate if there is evidence to show a violation occurred, is done on a case-by-case basis. When a practitioner is sanctioned, the practitioner must report his/her sanction whenever asked by any entity whether the practitioner has been disciplined.

23. Q: What is the difference between a disciplinary action and one that is non-disciplinary?

A: Minnesota Statutes, section 13.41 states that final disciplinary actions are public data. The Department of Health has no discretion in determining which matters will be public or not. Public data must be disclosed by all state agencies when someone asks for it. The licensing law does distinguish between civil penalty sanctions arising from incompetency or unprofessional conduct and penalty fees paid for practicing without a license or for continuing education violations. The former type of violations are disciplinary and the latter are non-disciplinary. The term Adiscipline@ is applicable to that conduct which results in harm to patients or harms the profession.

24. Q: I was investigated and I felt like I was treated like a criminal by the Department. Isn't there a different way of communicating in that type of situation?

A: The Department of Health realizes that receiving a letter notifying a practitioner that they may have violated the law or are under investigation is upsetting. The Department of Health uses language that is direct and legal in nature when we must notify you about your constitutional rights and legal responsibilities. The constitutional rights involved are a notice of the allegations and the right to be heard; in other words, to tell your side of the

story. Also, state law requires the Department of Health to give what is known as a Tennesen Warning@ to all practitioners being investigated. The Tennesen Warning tells practitioners who will see the information they are being asked to give, whether they are required by law to give the information, and what will happen to them if they do or do not give the information. The Department of Health must provide the Tennesen Warning to ensure that practitioner's have the opportunity to exercise their constitutional rights.

25. Q: If I move how does MDH know where to send my renewal information. If I change my name, what do I do to notify the Department of my new name?

A: You are responsible for notifying MDH of name and/or address changes within 30 days. If you move, you must send us a written request to change your address. For name changes, you must send a copy of a marriage certificate or court order Please make sure your written request is signed and dated. Please send your request to:

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